

Nov 25, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELIAS VELASQUEZ-
MANZANALES,

Defendant.

No: 2:18-CR-00196-RHW

**ORDER GRANTING UNITED
STATES' MOTION TO DISMISS
INDICTMENT**

Before the Court are the Government's: (1) Motion for Order of Dismissal Without Prejudice, ECF No. 61, and (2) Motion to Expedite Hearing. ECF No. 62.

Federal Rule of Criminal Procedure 48(a) provides that the Government "may, with leave of court, dismiss an indictment, information, or complaint." The judicial role contemplated by this rule is essentially to protect the defendant from prosecutorial harassment, *e.g.*, charging, dismissing, and recharging, by dismissing an indictment over the defendant's objection. *Rinaldi v. United States*, 434 U.S. 22, 29 n.15 (1977); *United States v. Weber*, 721 F.2d 266, 268 (9th Cir. 1983). A court may also deny a Government dismissal motion when it is prompted by

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1 considerations clearly contrary to the public interest, such as the acceptance of a
2 bribe by the prosecutor or the desire to attend a social event instead of appearing in
3 court. *Weber*, 721 F.2d at 268. Given the progression of these proceedings and the
4 fact that the parties have only recently obtained the recording of Defendant's prior
5 deportation—which prompted Defendant to file his own motion to dismiss, *see* ECF
6 No. 54—it is clear the Government's motion is not motivated by a desire to harass
7 Defendant, nor is it prompted by considerations clearly contrary to the public
8 interest.

9 Accordingly, **IT IS HEREBY ORDERED:**

- 10 1. The United States' Motion to Expedite Hearing, **ECF No. 62**, is
11 **GRANTED.**
- 12 2. The United States' Motion for Order of Dismissal Without Prejudice,
13 **ECF No. 61**, is **GRANTED.**
- 14 3. The Indictment, **ECF No. 18**, is **DISMISSED WITHOUT**
15 **PREJUDICE.**

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1 4. Defendant's pending Motion to Dismiss Indictment, **ECF No. 54**, is
2 **STRICKEN** as **MOOT**.

3 **IT IS SO ORDERED.** The District Court Clerk is directed to file this Order
4 and provide copies to counsel.

5 **DATED** this November 25, 2019.

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7 *s/ Robert H. Whaley*
8 ROBERT H. WHALEY
9 Senior United States District Judge
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